

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation of:

CHARLES LYNN BAHNER
P.O. BOX 365
Carlsbad, CA 92018

Registered Nurse License No. 531025
Nurse Practitioner Certificate No. 9475
Nurse Practitioner Furnishing No. 9475

Respondent

Case No. 2005 - 93

DEFAULT DECISION AND ORDER

The attached Default Decision and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **May 15, 2008.**

IT IS SO ORDERED **April 15, 2008.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
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8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Petition to Revoke Probation of:

Case No. 2005-93

13 CHARLES LYNN BAHNER
P.O. Box 365
14 Carlsbad, CA 92018

DEFAULT DECISION & ORDER

[Gov. Code, § 11520]

15 Registered Nurse License No. 531025
Nurse Practitioner Certificate No. 9475
16 Nurse Practitioner Furnishing No. 9475

17 Respondent.

18 FINDINGS OF FACT

19 1. On or about September 12, 2007, Complainant Ruth Ann Terry, M.P.H.,
20 R.N., in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs, filed a Petition to Revoke Probation, Case No. 2005-93,
22 against CHARLES LYNN BAHNER (Respondent) before the Board of Registered Nursing.

23 2. On or about March 24, 1997, the Board of Registered Nursing (Board)
24 issued Registered Nurse License No. 531025 to Respondent. The license expired on September
25 30, 2006, and has not been renewed.

26 3. On or about October 17, 1997, the Board of Registered Nursing issued
27 Nurse Practitioner Certificate No. 9475 to Respondent. The certificate expired on September 30,
28 2006, and has not been renewed.

1 4. On or about August 28, 1998, the Board of Registered Nursing issued
2 Nurse Practitioner Furnishing No. 9475 to Respondent. The furnishing number expired on
3 September 30, 2006, and has not been renewed.

4 5. In a disciplinary action entitled "In the Matter of Accusation Against
5 Charles Lynn Bahner," Case No. 2005-93, the Board issued a decision, effective November 14,
6 2005, in which Respondent's license, certificate, and furnishing number were revoked. However,
7 the revocations were stayed and Respondent's license, certificate, and furnishing number were
8 placed on probation for a period of three (3) years with certain terms and conditions. A copy of
9 the Accusation is attached to the Petition to Revoke Probation (Exhibit A), and is incorporated
10 herein by reference.

11 6. As a result of Respondent's failure to comply with the terms and conditions
12 of his probation, on or about September 12, 2007, the Board filed a Petition to Revoke Probation.
13 A copy of the Petition to Revoke Probation is attached as Exhibit A and is incorporated herein by
14 reference.

15 7. On or about September 25, 2007, Renee Stein, an employee of the
16 Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke
17 Probation, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
18 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
19 which was and is P.O. Box 365, Carlsbad, CA 92018. A copy of the Petition to Revoke Probation
20 is attached as Exhibit A, and is incorporated herein by reference.

21 8. Service of the Petition to Revoke Probation was effective as a matter of law
22 under the provisions of Government Code section 11505, subdivision (c).

23 9. On or about October 5, 2007, the aforementioned documents were returned
24 by the U.S. Postal Service marked "Undeliverable as addressed."

25 10. Government Code section 11506 states, in pertinent part:

26 (c) The respondent shall be entitled to a hearing on the merits if the
27 respondent files a notice of defense, and the notice shall be deemed a specific
28 denial of all parts of the accusation not expressly admitted. Failure to file a notice
of defense shall constitute a waiver of respondent's right to a hearing, but the
agency in its discretion may nevertheless grant a hearing.

11. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits.

12. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

13. Pursuant to its authority under Government Code section 11520, the Board respondent is in default. The Board will take action without further hearing and, based on respondent's express admissions by way of default and the evidence before it, contained in the Petition to Revoke Probation, find that the allegations in the Petition to Revoke Probation are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent has subjected his Registered Nurse License No. 531025, Nurse Practitioner Certificate No. 9475, and his Nurse Practitioner Furnishing No. 9475, to discipline.

2. A copy of the Petition to Revoke Probation and the Accusation are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License, Nurse Practitioner Certificate, and Nurse Practitioner Furnishing Number based upon Respondent's failure to comply with the Board's probation program. Respondent has not complied with any of the terms or conditions of probation since his initial probation orientation meeting in January 2006. Respondent has allowed his licenses to expire. Respondent did not notify the Board of any change of his address or telephone number of record.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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Exhibit A

Petition to Revoke Probation Case No. 2005-93 & Accusation

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 JAMES LEDAKIS

Supervising Deputy Attorney General

3 California Department of Justice

110 West "A" Street, Suite 1100

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Facsimile: (619) 645-2061

7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Petition to Revoke Probation
12 Against:

Case No. *2005-93*

13 CHARLES LYNN BAHNER

P. O. Box 365

14 Carlsbad, CA 92018

**PETITION TO REVOKE
PROBATION**

15 Registered Nurse License No. 531025

Nurse Practitioner Certificate No. 9475

16 Nurse Practitioner Furnishing No. 9475

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to Revoke
22 Probation solely in her official capacity as the Executive Officer of the Board of Registered
23 Nursing, Department of Consumer Affairs.

24 2. On or about March 24, 1997, the Board of Registered Nursing issued Registered
25 Nurse License No. 531025 to Charles Lynn Bahner (Respondent). The license expired on
26 September 30, 2006, and has not been renewed.

27 3. On or about October 17, 1997, the Board of Registered Nursing (Board) issued
28 Nurse Practitioner Certificate No. 9475 to Charles Lynn Bahner (Respondent). The certificate

1 expired on September 30, 2006, and has not been renewed.

2 4. On or about August 28, 1998, the Board issued Nurse Practitioner Furnishing No.
3 9475 to Charles Lynn Bahner (Respondent). The furnishing number expired on September 30,
4 2006, and has not been renewed.

5 5. In a disciplinary action entitled "In the Matter of Accusation Against Charles Lynn
6 Bahner," Case No. 2005-93, the Board issued a decision, effective November 14, 2005, in which
7 Respondent's license, certificate, and furnishing number were revoked. However, the revocations
8 were stayed and Respondent's license, certificate, and furnishing number were placed on
9 probation for a period of three (3) years with certain terms and conditions. A copy of that
10 decision is attached as Exhibit A and is incorporated by reference.

11 JURISDICTION

12 6. This Petition to Revoke Probation is brought before the Board under the authority
13 of the following laws. All section references are to the Business and Professions Code unless
14 otherwise indicated.

15 A. Section 2750 of the Business and Professions Code ("Code") provides, in
16 pertinent part, that the Board may discipline any licensee, including a licensee holding a
17 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
18 2750) of the Nursing Practice Act.

19 B. Section 2761 of the Code states:

20 "The board may take disciplinary action against a certified or licensed nurse or deny an
21 application for a certificate or license for any of the following:

22 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

23 "... .

24 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting
25 the violating of, or conspiring to violate any provision or term of this chapter [the Nursing
26 Practice Act] or regulations adopted pursuant to it.

27 "... ."

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1 C. Section 125.3 of the Code provides, in pertinent part, that the Board may request
2 the administrative law judge to direct a licensee found to have committed a violation or
3 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
4 and enforcement of the case.

5 7. This Petition to Revoke Probation is also brought before the Board under the
6 authority of the Board's Decision in Case No. 2005-93, pertinent jurisdictional provisions of
7 which are as follows:

8 "IT IS HEREBY ORDERED that Registered Nurse License No. 531025, Nurse
9 Practitioner Certificate No. 19475, and Nurse Practitioner Furnishing No. 9475 issued to
10 Respondent Charles Lynn Bahner are revoked. However the revocation is stayed and
11 Respondent is placed on probation for three (3) years on the following terms and conditions:

12 "....

13 "12. **Violation of Probation.** If Respondent violates the conditions of his probation, the
14 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
15 and impose the stayed discipline (revocation/suspension) of Respondent's license.

16 If during the period of probation, an accusation or petition to revoke probation has been
17 filed against Respondent's license or the Attorney General's office has been requested to prepare
18 an accusation or petition to revoke probation against Respondent's license, the probationary
19 period shall automatically be extended and shall not expire until the accusation or petition has
20 been acted upon by the Board.

21 "...."

22 CHARGES AND ALLEGATIONS

23 8. In January 2006, Respondent had his probation orientation interview with the
24 Board's representative.

25 9. On or about July 20, 2006, Respondent was advised in writing of the next
26 scheduled meeting on August 17, 2006. The Board's letter was sent to Respondent's address of
27 record. It was returned by the U.S. Post Office marked, "Unable to Forward, Return to Sender."

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1 10. Respondent appears to have abandoned his license, certificate, and furnishing
2 number in that his phone was disconnected at least as of July 31, 2006; he has not informed the
3 Board of any change of address; he did not appear for the August 17, 2006 probation interview;
4 and he has had no contact with the Board's probation program since his initial probation
5 orientation interview in January 2006.

6 11. Respondent has not complied with any term or condition of probation since his
7 initial probation orientation meeting in January 2006. Respondent has allowed his license,
8 certificate, and furnishing number to expire.

9 CAUSE TO REVOKE PROBATION

10 (Failure to Comply with Probation Program)

11 12. At all times after the effective date of Respondent's probation, Condition 2
12 required that Respondent fully comply with the conditions of the Probation Program; cooperate
13 with the Board's representatives; and inform the Board in writing within 15 days of any change
14 of address; and maintain an active and current license status with the Board.

15 13. Respondent's probation is subject to revocation because he has failed to comply
16 with all the terms and conditions of probation since January 2006.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking the probation that was granted by the Board of Registered Nursing in
21 Case No. 2005-93 and imposing the disciplinary order that was stayed, thereby revoking
22 Registered Nurse License No. 531025 issued to Charles Lynn Bahner;

23 2. Revoking the probation that was granted by the Board of Registered Nursing in
24 Case No. 2005-93 and imposing the disciplinary order that was stayed, thereby revoking Nurse
25 Practitioner Certificate No. 9475 issued to Charles Lynn Bahner.

26 3. Revoking the probation that was granted by the Board of Registered Nursing in
27 Case No. 2005-93 and imposing the disciplinary order that was stayed, thereby revoking Nurse
28 Practitioner Furnishing No. 9475 issued to Charles Lynn Bahner.

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4. Taking such other and further action as deemed necessary and proper.

DATED: 9/12/07

Ruth Ann Terry
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2005-93

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CHARLES LYNN BAHNER
P.O. Box 365
Carlsbad, CA 92018

Registered Nurse License No. 531025
Nurse Practitioner Certificate No. 9475
Nurse Practitioner Furnishing No. 9475

Respondent

Case No. 2005-93

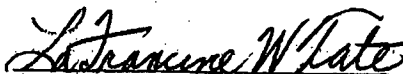
OAH No. L-2004050401

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on November 14, 2005.

IT IS SO ORDERED October 13, 2005.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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of the State of California
2 SUSAN FITZGERALD, State Bar No. 112278
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7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 CHARLES LYNN BAHNER
P. O. Box 365
14 Carlsbad, CA 92018

15 Registered Nurse License No. 531025
Nurse Practitioner Certificate No. 9475
16 Nurse Practitioner Furnishing No. 9475

17 Respondent.

Case No. 2005-93

OAH No. L-2004050401

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the
22 Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Susan
24 Fitzgerald, Deputy Attorney General.

25 2. Respondent Charles Lynn Bahner (Respondent) is represented in this proceeding
26 by attorney Bonnie M. Simonek, Esq. whose address is Klinedinst PC, 501 Broadway, #600, San
27 Diego, CA 92101.

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1 3. On or about March 24, 1997, the Board of Registered Nursing issued Registered
2 Nurse License No. 531025 to Charles Lynn Bahner (Respondent). The license was in full force
3 and effect at all times relevant to the charges brought in Accusation No. 2005-93 and will expire
4 on September 30, 2006, unless renewed.

5 4. On or about October 17, 1997, the Board of Registered Nursing issued Nurse
6 Practitioner Certificate No. 9475 to Charles Lynn Bahner (Respondent). The certificate was in
7 full force and effect at all times relevant to the charges brought in Accusation No. 2005-93 and
8 will expire on September 30, 2006, unless renewed.

9 5. On or about August 28, 1998, the Board of Registered Nursing issued Nurse
10 Practitioner Furnishing No. 9475 to Charles Lynn Bahner (Respondent). The furnishing number
11 was in full force and effect at all times relevant to the charges brought in Accusation No.
12 2005-93 and will expire on September 30, 2006, unless renewed.

13 JURISDICTION

14 6. Accusation No. 2005-93 was filed before the Board of Registered Nursing
15 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
16 Accusation and all other statutorily required documents were properly served on Respondent on
17 December 3, 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A
18 copy of Accusation No. 2005-93 is attached as exhibit A and incorporated herein by reference.

19 ADVISEMENT AND WAIVERS

20 7. Respondent has carefully read, fully discussed with counsel, and understands the
21 charges and allegations in Accusation No. 2005-93. Respondent has also carefully read, fully
22 discussed with counsel, and understands the effects of this Stipulated Settlement and
23 Disciplinary Order.

24 8. Respondent is fully aware of his legal rights in this matter, including the right to a
25 hearing on the charges and allegations in the Accusation; the right to be represented by counsel
26 at his own expense; the right to confront and cross-examine the witnesses against him; the right
27 to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to
28 compel the attendance of witnesses and the production of documents; the right to reconsideration

1 and court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

3 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each
4 and every right set forth above.

5 10. Respondent understand and agrees that the charge and allegation in the First
6 Cause for Discipline in Accusation No. 2005-93 if proven at a hearing constitutes cause for
7 imposing discipline on his Registered Nursing license, his Nurse Practitioner certificate and his
8 Furnishing number. For the purpose of resolving this First Cause for Discipline without the
9 expense and uncertainty of further proceedings, Respondent agrees that, at a hearing,
10 Complainant could establish a factual basis for the charges in the Accusation, and that
11 Respondent hereby gives up his right to contest the charges in the First Cause for Discipline.

12 11. Respondent admits the truth of the charges and allegations in the Second and
13 Third Causes for Discipline, and that they constitute cause for imposing discipline on his
14 Registered Nurse license, his Nurse Practitioner certificate and his Furnishing number.
15 Respondent agrees to be bound by the Board's imposition of discipline as set forth in the
16 Disciplinary Order below.

17 RESERVATION

18 12. The admissions made by Respondent herein are only for the purposes of this
19 proceeding, or any other proceedings in which the Board of Registered Nursing or other
20 professional licensing agency is involved, and shall not be admissible in any other criminal or
21 civil proceeding.

22 CONTINGENCY

23 13. This stipulation shall be subject to approval by the Board of Registered Nursing.
24 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
25 Registered Nursing may communicate directly with the Board regarding this stipulation and
26 settlement, without notice to or participation by Respondent or his counsel. By signing the
27 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
28 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails

1 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
2 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any
3 legal action between the parties, and the Board shall not be disqualified from further action by
4 having considered this matter.

5 OTHER MATTERS

6 14. The parties understand and agree that facsimile copies of this Stipulated
7 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
8 force and effect as the originals.

9 15. Costs of investigation and enforcement of this matter through June 30, 2005 total
10 \$7,930.50.

11 16. In consideration of the foregoing admissions and stipulations, the parties agree
12 that the Board may, without further notice or formal proceeding, issue and enter the following
13 Disciplinary Order:

14 DISCIPLINARY ORDER

15 IT IS HEREBY ORDERED that Registered Nurse License No. 531025, Nurse
16 Practitioner Certificate No. 9475, and Nurse Practitioner Furnishing No. 9475 issued to
17 Respondent Charles Lynn Bahner are revoked. However, the revocation is stayed and
18 Respondent is placed on probation for three (3) years on the following terms and conditions:

19 **Severability Clause.** Each condition of probation contained herein is a separate
20 and distinct condition. If any condition of this Order, or any application thereof, is declared
21 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
22 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
23 and enforceable to the fullest extent permitted by law.

24 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full
25 and detailed account of any and all violations of law shall be reported by Respondent to the
26 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
27 compliance with this condition, Respondent shall submit completed fingerprint forms and
28 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted

1 as part of the licensure application process.

2 **Criminal Court Orders:** If Respondent is under criminal court orders, including
3 probation or parole, and the order is violated, this shall be deemed a violation of these probation
4 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

5 2. **Comply with the Board's Probation Program.** Respondent shall fully comply
6 with the conditions of the Probation Program established by the Board and cooperate with
7 representatives of the Board in its monitoring and investigation of the Respondent's compliance
8 with the Board's Probation Program. Respondent shall inform the Board in writing within no
9 more than 15 days of any address change and shall at all times maintain an active, current license
10 status with the Board, including during any period of suspension.

11 Upon successful completion of probation, Respondent's license shall be fully restored.

12 3. **Report in Person.** Respondent, during the period of probation, shall appear in
13 person at interviews/meetings as directed by the Board or its designated representatives.

14 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
15 practice as a registered nurse outside of California shall not apply toward a reduction of this
16 probation time period. Respondent's probation is tolled, if and when he resides outside of
17 California. Respondent must provide written notice to the Board within 15 days of any change of
18 residency or practice outside the state, and within 30 days prior to re-establishing residency or
19 returning to practice in this state.

20 Respondent shall provide a list of all states and territories where he has ever been
21 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
22 provide information regarding the status of each license and any changes in such license status
23 during the term of probation. Respondent shall inform the Board if he applies for or obtains a
24 new nursing license during the term of probation.

25 5. **Submit Written Reports.** Respondent, during the period of probation, shall
26 submit or cause to be submitted such written reports/declarations and verification of actions
27 under penalty of perjury, as required by the Board. These reports/declarations shall contain
28 statements relative to Respondent's compliance with all the conditions of the Board's Probation

1 Program. Respondent shall immediately execute all release of information forms as may be
2 required by the Board or its representatives.

3 Respondent shall provide a copy of this Decision to the nursing regulatory agency in
4 every state and territory in which he has a registered nurse license.

5 6. **Function as a Registered Nurse.** Respondent, during the period of probation,
6 shall engage in the practice of registered nursing in California for a minimum of 24 hours per
7 week for 6 consecutive months or as determined by the Board.

8 For purposes of compliance with the section, "engage in the practice of registered
9 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
10 work in any non-direct patient care position that requires licensure as a registered nurse.

11 The Board may require that advanced practice nurses engage in advanced practice
12 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
13 Board.

14 If Respondent has not complied with this condition during the probationary term, and
15 Respondent has presented sufficient documentation of his good faith efforts to comply with this
16 condition, and if no other conditions have been violated, the Board, in its discretion, may grant
17 an extension of Respondent's probation period up to one year without further hearing in order to
18 comply with this condition. During the one year extension, all original conditions of probation
19 shall apply.

20 7. **Employment Approval and Reporting Requirements.** Respondent shall obtain
21 prior approval from the Board before commencing or continuing any employment, paid or
22 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
23 performance evaluations and other employment related reports as a registered nurse upon request
24 of the Board.

25 Respondent shall provide a copy of this Decision to his employer and immediate
26 supervisors prior to commencement of any nursing or other health care related employment.

27 In addition to the above, Respondent shall notify the Board in writing within seventy-two
28 (72) hours after he obtains any nursing or other health care related employment. Respondent

1 shall notify the Board in writing within seventy-two (72) hours after he is terminated or
2 separated, regardless of cause, from any nursing, or other health care related employment with a
3 full explanation of the circumstances surrounding the termination or separation.

4 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
5 Respondent's level of supervision and/or collaboration before commencing or continuing any
6 employment as a registered nurse, or education and training that includes patient care.

7 Respondent shall practice only under the direct supervision of a registered nurse in good
8 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
9 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
10 approved.

11 Respondent's level of supervision and/or collaboration may include, but is not limited to
12 the following:

13 (a) Maximum - The individual providing supervision and/or collaboration is present in
14 the patient care area or in any other work setting at all times.

15 (b) Moderate - The individual providing supervision and/or collaboration is in the
16 patient care unit or in any other work setting at least half the hours Respondent works.

17 (c) Minimum - The individual providing supervision and/or collaboration has person-
18 to-person communication with Respondent at least twice during each shift worked.

19 (d) Home Health Care - If Respondent is approved to work in the home health care
20 setting, the individual providing supervision and/or collaboration shall have person-to-person
21 communication with Respondent as required by the Board each work day. Respondent shall
22 maintain telephone or other telecommunication contact with the individual providing supervision
23 and/or collaboration as required by the Board during each work day. The individual providing
24 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits
25 to patients' homes visited by Respondent with or without Respondent present.

26 **9. Employment Limitations.** Respondent shall not work for a nurse's registry, in
27 any private duty position as a registered nurse, a temporary nurse placement agency, a traveling
28 nurse, or for an in-house nursing pool.

1 Respondent shall not work for a licensed home health agency as a visiting nurse unless
2 the registered nursing supervision and other protections for home visits have been approved by
3 the Board. Respondent shall not work in any other registered nursing occupation where home
4 visits are required.

5 Respondent shall not work in any health care setting as a supervisor of registered nurses.
6 The Board may additionally restrict Respondent from supervising licensed vocational nurses
7 and/or unlicensed assistive personnel on a case-by-case basis.

8 Respondent shall not work as a faculty member in an approved school of nursing or as an
9 instructor in a Board approved continuing education program.

10 Respondent shall work only on a regularly assigned, identified and predetermined
11 worksite(s) and shall not work in a float capacity.

12 If Respondent is working or intends to work in excess of 40 hours per week, the Board
13 may request documentation to determine whether there should be restrictions on the hours of
14 work.

15 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll
16 and successfully complete a course(s) relevant to the practice of registered nursing no later than
17 six months prior to the end of his probationary term.

18 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
19 Respondent shall submit to the Board the original transcripts or certificates of completion for the
20 above required course(s). The Board shall return the original documents to Respondent after
21 photocopying them for its records.

22 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
23 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
24 amount of \$3,965.25. Respondent shall be permitted to pay these costs in a payment plan
25 approved by the Board, with payments to be completed no later than three months prior to the
26 end of the probation term.

27 If Respondent has not complied with this condition during the probationary term, and
28 Respondent has presented sufficient documentation of his good faith efforts to comply with this

1 condition, and if no other conditions have been violated, the Board, in its discretion, may grant
2 an extension of Respondent's probation period up to one year without further hearing in order to
3 comply with this condition. During the one year extension, all original conditions of probation
4 will apply.

5 12. **Violation of Probation.** If Respondent violates the conditions of his probation,
6 the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay
7 order and impose the stayed discipline (revocation/suspension) of Respondent's license.

8 If during the period of probation, an accusation or petition to revoke probation has been
9 filed against Respondent's license or the Attorney General's Office has been requested to
10 prepare an accusation or petition to revoke probation against Respondent's license, the
11 probationary period shall automatically be extended and shall not expire until the accusation or
12 petition has been acted upon by the Board.

13 13. **License Surrender.** During Respondent's term of probation, if he ceases
14 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
15 probation, Respondent may surrender his license to the Board. The Board reserves the right to
16 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
17 take any other action deemed appropriate and reasonable under the circumstances, without
18 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
19 will no longer be subject to the conditions of probation.

20 Surrender of Respondent's license shall be considered a disciplinary action and shall
21 become a part of Respondent's license history with the Board. A registered nurse whose license
22 has been surrendered may petition the Board for reinstatement no sooner than the following
23 minimum periods from the effective date of the disciplinary decision:

24 (1) Two years for reinstatement of a license that was surrendered for any reason other
25 than a mental or physical illness; or

26 (2) One year for a license surrendered for a mental or physical illness.

27 ACCEPTANCE

28 I have carefully read the above Stipulated Settlement and Disciplinary Order and

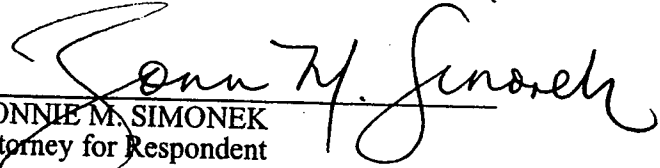
1 have fully discussed it with my attorney, Bonnie M. Simonek. I understand the stipulation and
2 the effect it will have on my Registered Nurse License, and Nurse Practitioner Certificate, and
3 Nurse Practitioner Furnishing number. I enter into this Stipulated Settlement and Disciplinary
4 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
5 of the Board of Registered Nursing.

6 DATED: July 12, 2005

7
8
9 
CHARLES LYNN BAHNER
Respondent

10
11 I have read and fully discussed with Respondent Charles Lynn Bahner the terms and
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
13 Order. I approve its form and content.

14 DATED: July 12, 2005

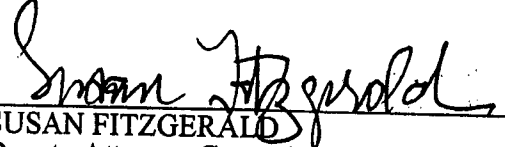
15
16
17 
BONNIE M. SIMONEK
Attorney for Respondent

18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
21 Affairs.

22 DATED: July 12, 2005

23 BILL LOCKYER, Attorney General
24 of the State of California

25
26 
SUSAN FITZGERALD
27 Deputy Attorney General

28 Attorneys for Complainant

Exhibit A
Accusation No. 2005-93

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN FITZGERALD, State Bar No. 112278
Deputy Attorney General
3 California Department of Justice
P.O. Box 85266
4 San Diego, CA 92186-5266
Telephone: (619) 645-2066
5 Facsimile: (619) 645-2061
6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2005-93

11 CHARLES LYNN BAHNER
12 P. O. Box 365
13 Carlsbad, CA 92018

A C C U S A T I O N

14 Registered Nurse License No. 531025
15 Nurse Practitioner Certificate No. 9475
Nurse Practitioner Furnishing No. 9475

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about March 24, 1997, the Board of Registered Nursing issued Registered
23 Nurse License Number 531025 to Charles Lynn Bahner (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on September 30, 2006, unless renewed.

26 3. On or about October 17, 1997, the Board of Registered Nursing issued Nurse
27 Practitioner Certificate Number 9475 to Charles Lynn Bahner (Respondent). The Nurse
28 Practitioner Certificate was in full force and effect at all times relevant to the charges brought

1 herein and will expire on September 30, 2006, unless renewed.

2 4. On or about August 28, 1998, the Board of Registered Nursing issued Nurse
3 Practitioner Furnishing Number 9475 to Charles Lynn Bahner (Respondent). The Nurse
4 Practitioner Furnishing was in full force and effect at all times relevant to the charges brought
5 herein and will expire on September 30, 2006, unless renewed.

6 JURISDICTION

7 5. This Accusation is brought before the Board of Registered Nursing (Board),
8 Department of Consumer Affairs, under the authority of the following laws. All section
9 references are to the Business and Professions Code unless otherwise indicated.

10 6. Section 2750 of the Business and Professions Code ("Code") provides, in
11 pertinent part, that the Board may discipline any licensee, including a licensee holding a
12 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
13 2750) of the Nursing Practice Act.

14 7. Section 2761 of the Code states:

15 "The board may take disciplinary action against a certified or licensed nurse or deny an
16 application for a certificate or license for any of the following:

17 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

18 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
19 functions.

20 "..."

21 "(h) Impersonating another certified or licensed practitioner, or permitting or allowing
22 another person to use his or her certificate or license for the purpose of nursing the sick or
23 afflicted.

24 "..."

25 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request
26 the administrative law judge to direct a licensee found to have committed a violation or
27 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
28 and enforcement of the case.

1 **CHARGES AND ALLEGATIONS**

2 9. Between at least 2000 and mid-March, 2003, Respondent owned and operated a
3 solo health care practice as a nurse practitioner in Escondido, California.

4 10. In at least 2003, Respondent saw approximately 40 patients per day. About 97%
5 of his practice was Family PACT (Planning, Access, Care and Treatment), a Medi-Cal program
6 to assist in family planning and reproduction, 2% straight Medi-Cal and 1% cash paying patients.
7 He did not accept HMO or PPO patients.

8 **First Cause for Discipline**

9 **(Unprofessional Conduct: Impersonating Another Practitioner)**

10 11. Respondent is subject to disciplinary action under section 2761(h) for
11 impersonating another licensed practitioner in that it was his custom and habit while practicing as
12 a nurse practitioner to sign both his name as the nurse practitioner and the name of his
13 supervising physician on the medical records. The supervising physician(s) did not actually
14 review the records or provide supervision.

15 **Second Cause for Discipline**

16 **(General Unprofessional Conduct (Negligence) or Incompetence)**

17 12 Respondent is subject to disciplinary action under section 2761(a) for general
18 unprofessional conduct (negligence) or under section 2761(a)(1) for incompetence, as more
19 particularly alleged below:

20 A. He repeatedly performed unnecessary pregnancy tests (approximately 24 between
21 January 2001 and October 2002) on patient Y.M. when the records do not support this frequency
22 of testing.

23 B. He repeated performed unnecessary pregnancy tests (4 tests in about 90 days) on
24 patient C.B. when the records do not support this frequency of testing.

25 **Third Cause for Discipline**

26 **(General Unprofessional Conduct (Negligence) or Incompetence)**

27 13. Respondent is subject to disciplinary action under section 2761(a) for general
28 unprofessional conduct (negligence) or under section 2761(a)(1) for incompetence, as more

1 particularly alleged below:

2 A. Patient Y.M. had four yeast infections (candidiasis) within a 10 month period.

3 B. Respondent's protocol required additional testing to evaluate carbohydrate
4 metabolism to exclude diabetes when these infections re-occur that frequently; however,
5 Respondent failed to follow the protocol and to test the patient for this disease process which
6 could have been harmful to the patient.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein
9 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 531025, issued to
11 Charles Lynn Bahner;


12 2. Revoking or suspending Nurse Practitioner Certificate Number 9475, issued to
13 Charles Lynn Bahner.

14 3. Revoking or suspending Nurse Practitioner Furnishing Number 9475, issued to
15 Charles Lynn Bahner.

16 4. Ordering Charles Lynn Bahner to pay the Board of Registered Nursing the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3;

19 5. Taking such other and further action as deemed necessary and proper.

20 DATED: 11/23/04

21
22
23 
RUTH ANN TERRY, M.P.H., R.N.
24 Executive Officer
25 Board of Registered Nursing
26 Department of Consumer Affairs
27 State of California
28 Complainant